

Message Text

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ACTION SCSE-00

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FM AMEMBASSY NASSAU

TO SECSTATE WASHDC PRIORITY 7969

UNCLAS NASSAU 0464

E.O. 11652: N/A

TAGS: CASC, BF (SHOBOK, MICHAIAH)

SUBJ: MICHAIAH SHOBOK APPEAL

REF: NASSAU 0460 AND PREVIOUS

1. COURT OF APPEAL, IN DISMISSAL OF SHOBOK APPEAL, STATED THAT THE ADMITTING OF FRESH EVIDENCE COULD ONLY BE CONSIDERED ON THE CONDITIONS THAT SUCH EVIDENCE WAS NOT AVAILABLE AT THE TRIAL AND THAT IT MUST BE EVIDENCE RELEVANT TO THE ISSUE AND MUST BE CREDIBLE - CAPABLE OF BELIEF. WHILE NOTING THAT DR. PODLEWSKI HAD TESTIFIED AT THE TRIAL OF SHOBOK THE JUDGES FELT THAT "CLEARLY, THERE WOULD BE A DANGER OF PUTTING A PREMIUM ON THE PRODUCTION OF EVIDENCE AFTER, RATHER THAN AT, A TRIAL IF IT HAD THEN TO MEET STANDARDS OF COGENCY LESS EXACTING THAN WOULD HAVE BEEN FACED AT THE TRIAL WHERE, UNLESS IT ACTUALLY INFLUENCED THE JURY'S DECISION, IT COULD HAVE NO EFFECT."COURT RULED THAT IT WAS UNLIKELY SECOND JURY WOULD BE CONVINCED OF SHOBOK'S PROBABLE MENTAL INSTABILITY SINCE IT WAS APPARENT THAT THE SUPREME COURT JURY THAT CONVICTED HIM IN MAY 1974 DISBELIEVED THAT HE WAS MENTALLY ILL THEN WHEN THE ISSUE FIRST AROSE. COURT STATED IN THE LIGHT OF THE ESTABLISHED FACTS WHICH WENT TO SHOW THAT THIS WAS A COOL, CALCULATED AND DELIBERATE CRIME, IT WAS NOT SURPRISING THAT THE JURY'S REJECTION OF SUGGESTIONS OF INSANITY OR DIMINISHED RESPONSIBILITY BROUGHT IN A UNANIMOUS VERDICT OF GUILTY. IN ESSENCE, THE COURT FELT THAT DR. PODLEWSKI'S PRESENT OPINION WOULD NOT LIKELY HAVE ALTERED THE VERDICT OF THE JURY. THE COURT'S COMPLETE UNCLASSIFIED

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JUDGEMENT WILL BE POUCHED TO THE DEPT ASAP.

2. IN CONCLUSION OF RULING, COURT STATED PROPER BODY TO DECIDE MERITS OF CASE IS MINISTRY OF HOME AFFAIRS AND NOT THE COURT, AND RECOMMENDED THAT COURSE OF ACTION TO SHOBEK'S ATTORNEY.

3. THE FIRM OF DUPUCH AND TURNQUEST WILL SUBMIT A PETITION TO THE MINISTER OF HOME AFFAIRS REQUESTING CLEMENCY FOR SHOBEK AND HAVE TODAY SO INFORMED THE MINISTER. AS MR. DUPUCH IS ENGAGED IN ANOTHER TRIAL AT THE PRESENT TIME, THE PETITION WILL BE SUBMITTED BY MR. TURNQUEST WITHIN A FEW DAYS. TURNQUEST STATES HE HAS BEEN INFORMED BY MINISTRY THAT IT WILL NOT TAKE ANY ACTION ON THE CASE PENDING RECEIPT OF THE PETITION. IT WILL PROBABLY BE AT LEAST TWO WEEKS BEFORE A DECISION IS RENDERED BY THE MINISTER FOLLOWING RECEIPT OF PETITION. THE FIRM WILL AGAIN REPRESENT SHOBEK WITHOUT FEE. DEPT WILL BE INFORMED OF SIGNIFICANT DEVELOPMENTS.
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